

## INTERNATIONAL

Section Newsletter

## LAW

## MESSAGE FROM THE CHAIR

Linnet C. Harlan, Chair

You see the fliers and read the descriptions of our programs on the web site and in the e-brief as well as receive the brochures. Or maybe you've focused on the descriptions of the many programs we present at the Annual Meetings and Section Education Institutes. Perhaps you wonder how ILS programs come into being.

"Lots of hard work" is one answer. "To fill a need" is another. "To perform a service" is equally true. Programs begin as an idea from a section member or an advisor, member OF advisor emeritus of the Executive Committee. Usually the person suggesting the idea is particularly interested in the idea, as in our recent China program cochaired by Lucas Chang and Bruce Boyd. Sometimes the person suggesting the idea wants to perform a public service like this year's Careers in International



Law presentations created by Brian Krantz, Peter Gelles, Russ Kerr, Daniel Zimmerman, and Ross Meador for law schools throughout the state or the recent Legal Basics of International Trade Sacramento presentation co-chaired by Margaret Hastings and Keith Per-

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## Spring 2004

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## "DOING BUSINESS IN THE EXPANDING EU"

ILS and the British American Business Council (BABC) will present a Conference on "Doing Business in the Expanding EU", at the LA Center Studios, at the former UNOCAL building, near Downtown L.A., on June 9, 2004, from 1pm-5:30pm, with a hosted reception to follow. The Conference will feature prominent speakers, including Bertie Ahern, current Irish Prime minister and EU President (via Satellite from the U.K.), one or more former EU Ambassadors, local consular and trade commission officials, EU specialist lawyers, and international business executives. The Conference will provide an overview of current EU law, practice and business opportunities in the newly expanding EU, and breakout panels on trade and investment in a number of EU countries, film and entertainment opportunities in the EU, and transatlantic litigation and ADR practice. Further information (including information regarding sponsorship opportunities) can be obtained from Peter Gelles (310/201-7900 or pag@petergelles.com), John Garman (310/796-7958 or Jgarmanllm@cs.com) or Gillian Campbell, BABC-LA Executive Director (310/312-1962 gillian@babcla.org).

## Special points of interest:

- Impact of same sex marriage on immigration.
- MCLE self-study in "Helpful Hints and Shortcuts".
- Read about W.
   Barth and see what your fellow ILS members are up to.
- EU Program: June

Chair's Message-Continued from Page 1

shall. Sometimes a topic seems particularly relevant given current events, such at the upcoming EU program co-chaired by Peter Gelles and John Garman. Sometimes, as with the programs on Elimination of Bias and Substance Abuse Mark Katz and San San Lee, respectively, will chair at October's Annual Meeting, we simply think we can provide a perspective on important topics not otherwise available.

Once an idea has been seized upon, the planning process begins. We usually begin planning a program approximately six months before it's presented. Six to three months before the program, the program chair chooses the venue, refines the MCLE topics and recruits panelists and moderators. If the program will be presented at an Annual Meeting or SEI, we often try to arrange with other sections for co-sponsorships such as those we'll have at this year's

Annual Meeting for our programs on International Custody Abduction, Cross Border Real Estate Transactions, Cross Border Mergers and Acquisitions and International Intellectual Property Issues.

If the program is a stand-alone (i.e. not presented at the Annual Meeting or a SEI), the publicity machine, chaired by Carol Brittain, then begins its work. Depending on the program, this group generates press releases, coordinates ads and generally insures that you, our members, know about the program and why you might want to attend it and that non-members are also aware of the benefits of attending the program.

At the moment, the EU Program, to be presented June 9 in Los Angeles, is in the midst of its publicity cycle. The fourteen programs we will present at the Annual Meeting in Monterey are firming up speakers, moderators and titles of presentations. The Careers in International Law committee is beginning to make its contact for presentations next fall at law schools throughout the state.

Altogether, this year we will present more programs to more attendees than at any other time in the Section's history. We also will be hosting a reception for ILS members at the Annual Meeting (October 8). We hope you can join us and look forward to the opportunity to meeting you in person.

If you haven't yet attended one of our programs, plan to do so in the near future. You'll be glad you did. We look forward to seeing you there.

Sincerely, Linnet C. Harlan, Chair



# THE IMPACT OF SAME SEX MARRIAGES ON US IMMIGRATION LAWS

By Lisa Elgersma, HirsonWexlerPerl lelgersma@hirson.com

The marriage rights of same sex partners have become a featured controversy in the media, politics and courts of law. The debate seems to center on the rights of same sex partners in the United States to legally marry and become entitled to the same benefits as married couples, including rights and benefits under U.S. immigration laws.

States have the right to issue their own laws regarding marriage requirements which take place within that state. The recognition of one state's laws by another state is mandated under the Constitution's Full Faith and Credit clause. Specifically, this clause states that "Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state." It also finds that "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." U.S. Constitution, Article IV, Sections 1 and 2.

Therefore, it is logical that a legal marriage in one state is legal in all states. However, the reality of the recognition of marriage laws from one state to another is complicated by the definition of marriage in the Defense of Marriage Act ("DOMA"), 110 Stat. 2419 (1996) which was passed by Congress in 1996. DOMA defines a "marriage" as only the "legal union between one man and one woman" for federal agency and administrative purposes. Therefore, if

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## (cont'd from Page 2) IMPACT OF SAME SEX MARRIAGES ON US IMMIGRATION LAWS

advocates of same sex marriages could argue that constitutionally other states must recognize the same sex marriages of another state, opponents of same sex marriage could claim that DOMA makes it clear that same sex partners cannot legally marry under federal law as they are not allowed to claim federal benefits.

Clearly, the controversy arises when one state recognizes same sex marriages and other states do not. Although most states do not recognize same sex marriages, these laws are currently being tested by mayors, judges, and politicians across the nation. Some states seem to be discussing the possibility of allowing same sex couples to join in a type of "civil union" instead of a marriage. The difference and similarities between civil unions and marriages and the rights granted under each of them will most likely vary from state to state.

Although the legality of same sex marriages or civil unions under state laws is not clear, the laws surrounding same sex marriages and

their impact on U.S immigration laws are quite clear. Currently, same sex marriages are not recognized under federal immigration laws in accordance with DOMA which means that foreign nationals cannot obtain any benefits or rights to live and work in the U.S. based upon or through the sponsorship of a same sex partner. Therefore, the fact that a state recognizes a same sex marriage will not qualify a foreign national same sex partner for any immigration benefits. Specifically, this means that a same sex spouse may not obtain immigration benefits such as obtaining permanent residence through marriage to a U.S. citizen or lawful permanent resident. To keep same sex couples together, other categories of immigration benefits may have to be explored, e.g., sponsorship by an employer or making a qualified investment.

There is some flexibility for same sex partners in regards to temporary visits and work assignments in the United States. Same sex partners may not accompany a foreign national spouse to the United States with a dependent visa like opposite sex spouses. However, same sex partners may be issued temporary visitor's visas to accompany a same sex partner who is entering the United States on a temporary working visa (nonimmigrant status). A memorandum from the State Department to all U.S. Consulates advises these Consulates to issue long-term, co-habiting partners visitor's visas so that they may accompany their partners to the United States on a temporary basis. Please see "Domestic Partners eligible for B-2 Visas" Posted on AILA InfoNet. Doc. No. 01071131(July 11, 2001).

It is unclear whether the current controversy regarding marriages between same sex couples may eventually cause state laws and federal laws to change to allow same sex couples to be joined in marriage or in civil unions. What is clear is that under current U.S. immigration laws there are very few benefits available to foreign nationals based upon their relationship with a same sex partner or spouse.

## HELPFUL HINTS AND SHORTCUTS

Link to International Law Section Website:

www.calbar.ca.gov/ils

Link to MCLE Self-Study:

www.calbar.org/ils/self-study.htm

"Members only Section" of the ILS website will be launched in June. Please join and stay involved in the ILS community through the use of up to date information on the website.



WILLIAM BARTH, a new member of the International Law Section, has taken a path that is a quintessential example of the diverse career paths taken by many members of our section. A former attorney with HUD, Mr. Barth is embarking on a D.Phil. (British equivalent of Ph.D.) in the Department of Politics at St. Anthony's College, University of Oxford. He is a fellow at the Rothermere American Institute at Oxford, which hosts forums, conferences and research on various aspects of U.S. history, literature, culture and politics. He earned a Masters of Public Administration at Harvard University's John F. Kennedy School of Government in 1986 and a J.D. from Loyola Law School (Los Angeles) in 1979. We recently had an opportunity to speak with Mr. Barth about his studies and plans:

 Where were you practicing before you began your studies at Oxford?

A: Prior to Oxford, I worked for eight years as a senior level Federal lawyer and manager in the Office's of General Counsel and Community Planning and Development of HUD. I advised and managed Community Planning and Development Programs including Federal Homeless, Community Development and Affordable Housing Programs. I worked in the Wash-

## LEARNING ABOUT WILLIAM BARTH

WHAT ARE YOUR FELLOW ILS MEMBERS UP TO?

ington D.C., HUD headquarters office and later worked as Community Planning and Development Director in the LA HUD Field Office where I managed a \$1.7 billion Community Planning and Development Federal grants portfolio affecting 96 cities and counties and over 2000 non-profit homeless organizations throughout Southern California.

What motivated you to pursue your studies at Oxford?

A: Having worked in politics and government at the state, local, and Federal level for over a decade, I aspired to gain a theoretical understanding about critical public policy issues including poverty, civil rights, segregation, and social injustice. Oxford provided an ideal setting to perform research in political theory and philosophy from an international perspective.

3. Where would you like to take your career after your studies at Oxford?

A: I would like to pursue teaching at the University level in comparative politics or international human rights law. I am also interested in advising international organizations such as the UN.

 What are the view points toward U.S. Policies in Iraq at Oxford? (Note: The opinion expressed in the following response is that of Mr. Barth, not that of the International Law Section.)

A: At Oxford, one tends to hear views on the war that reflect that of the international community. Many scholars support the idea that the U.S. should comply with international laws, rules and standards with regard to its actions in Iraq. They argue that U.S. activities reguired United Nations authorization and control over administration of the transition from Iraq's current status into that of an independent and sovereign country. While Oxford takes no formal position, this issue has been a source of great controversy in Oxford as well as the U.K. Prime Minister Blair has experienced tremendous criticism for his support of the invasion of Iraq both from elements of his own Labor as well as Britain's Liberal and Tory parties. British policy in Iraq is the subject of several parliamentary inquiries. It also has impacted British relations with France and Germany since both countries opposed the U.S. and British war on Iraq. The Spanish electorate recently voted Prime Minister Aznar's ruling party out of power as a result of Spanish government support for the war on Iraq and the recent attacks by terrorists in Madrid.

Editors Note:

We thank Mr. Barth for his time and sharing his experience and thoughts with us.

## UCLA AND WHITTIER ILS CAREER DAYS

On March 3, 2004, ILS presented a successful and well-received International Law Career Day at UCLA. Panelists included: Donal Hanley (Tombo Aviation), Brian Krantz (Law Offices of Brian Krantz), Elena Muravina (Rosenfeld Meyer & Sussman), Paul Supnik (Supnik Law Office) and Xianchun Vendler (Squire Sanders & Dempsey LLP). Peter Gelles (Century City) moderated. There were approximately 60 attendees, including both UCLA law students and students from other local law schools. The panelists discussed their own varied backgrounds and types of practice, the increasing globalization of many areas of practice, and differing ways to prepare for and embark upon a

career in international law practice. The panelists responded to questions from the audience on the following: private vs. public international practice opportunities; law firm, corporate, governmental and NGO practice opportunities; the value of a good foundation in one or more areas of domestic substantive law and dealings with foreign legal counsel; and the importance of sensitivity to cultural differences, and differences in legal systems and concepts. Many thanks are due to Xianchun Vendler, who arranged for pizza for all attendees courtesy of Squire, Sanders & Dempsey LLP.

The ILS Career Day at Whittier Law School took place on Monday, March 29<sup>th</sup> at noon, which was also successful and well-received. There were four speakers, Donal Hanley (Tombo Aviation), David Hirson (Hirson Wexler Perl), Jeffrey W. Shields (Shields Law Office), and Andrew H. Simpson (Knobbe Martens, Olson & Bear LLP). Russell Kerr (Kerr & Associates) moderated. The speakers and the moderator discussed their own career paths and opportunities of practicing as international lawyer in various areas, ranging from immigration, litigation, transactional, aviation, intellectual property and human rights. The Career Day at Whittier was well attended with approximately 70 students, mostly from Whittier Law School and two other Orange County law schools, Chapman School of Law and Western State School of Law. Notwithstanding Russ Kerr's gracious offer to provide pizza for the event, Whittier generously provided pizza and soft drinks for attendees and participants

Contributed by Peter Gelles and Russ Kerr.



Panelists and students at the UCLA ILS Career Day

## Got An Interesting Story?

ILS Newsletter wants to print your story.

If you are interested in making submission for publication in the ILS Newsletter, please submit your article, write-up and pictures to:

San San Lee Newsletter Editor sslee@sansanlaw.com

## **UPCOMING EVENTS**

## "DOING BUSINESS IN THE EXPANDING EU"

**JUNE 9, 2004** 

Peter Gelles (310/201-7900 or pag@petergelles.com), John Garman (310/796-7958 or Jgarmanllm@cs.com) or Gillian Campbell, BABC-LA Executive Director (310/312-1962 or gillian@babcla.org).

## ILS MEMBER RECEPTION

OCTOBER 8, 2004

PORTOLA PLAZA HOTEL, MONTEREY BAY
5:00p.m.-7:00p.m.

## INTERNATIONAL BAR ASSOCIATION CONFERENCE

OCTOBER 24-29

AUCKLAND http://www.ibanet.org/Auckland/

## OTHER INTERNATIONAL ORGANIZATIONS

(PLEASE CHECK THESE WEBSITES FOR EVENTS)

AIJA ~ Association Internationale des Jeunes Avocats (International Association of Young Lawyers): www.aija.org

UIA~Association Internationale des Avocats (International Association of Lawyers): www.uianet.org

IPBA-Inter-Pacific Bar Association: www.ipba.org

IABA-Inter-American Bar Association: www.iaba.org

IBA-International Bar Association: www.ibanet.org



# "LEGAL BASICS OF INTERNATIONAL TRADE" SACRAMENTO ARPIL 21, 2004

Speakers and attendees of "Legal Basics of International Trade" seminar sponsored by ILS on April 21, 2004 at the Law School of University of Pacific relax at the post-seminar reception.

The Executive Committee of ILS thanks all speakers and attendees for their participation in the seminar.



## MEMBERS OF THE EXECUTIVE COMMITTEE OF ILS

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## JOIN US!

For those of you who are not yet members, the California International Law Section invites you to join us now. Take advantage of the MCLE programs and the free publications. Take advantage of the opportunities to recommend topics and/;or speakers for Section programs, to contribute articles and/or ideas for articles to Section publications, and to meet with foreign lawyers.

United States \$60	
Law Students in U.S. \$25	
Outside the U.S. \$90	
es include a yearly subscription to the California International Law Ne ner and admission to Section programs and events at discounted proship; all interested attorneys, non-attorneys, law professors and law substration, please telephone the International Law Section administratives 8-2380.	rices. There are no prerequisites to tudents are invited to enroll. For fur-
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WANTS YOUR SUMBMISSIONS FOR ARTICLES

PLEASE SEND THEM TO:

Babak Nikravesh bnikravesh@hewn.com

Ravi Mahalingam ravi526@aol.com

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Have you set up your State Bar Online Membership Profile? If not — MAKE IT A PRIORITY!

Here are the IMPORTANT things you will be able to do when your profile is in place:

Enter the Members-Only Area of any Section of which you're a member, and have immediate access to key publications, past newsletters, updates, and special offers available only to members

IMPORTANT NOTE: AFTER JUNE 1, 2004 YOUR <u>ONLY</u> ACCESS TO THE SECTIONS' MEMBERS-ONLY AREAS WILL BE VIA YOUR STATE BAR ONLINE PROFILE!



- Participate in Section discussion boards and share ideas, tips and information with your fellow Bar members
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- Designate a public email address for your public address of record, and a private email address for your State Bar correspondence
- · Pay your State Bar dues online via credit card or electronic debit
- · Submit MCLE compliance online

Expanding Benefits - The opportunities afforded by the Sections' Members Only Areas will be growing steadily, as more Sections add discussion boards and content to their sites. In the future, you will be able to sign up for distribution lists from specific Sections so you can receive important legislative alerts, practice tips, updates and notices in the form of e-communication.

Create your Member Profile NOW! Start by going to www.calbar.ca.gov/members. Then, just enter your State Bar access code and follow the instructions provided. (Note: Your access code appeared on your 2003 State Bar dues statement. Since we know that you may not have retained that number, we will be mailing a letter with your access code to all Section members in mid-May.)



For more information about the State Bar Sections, go to www.calbar.ca.gov/sections. Join us as we continue to build our community of professionals online, and provide you with the ever-expanding resources for your practice.

## "DOING BUSINESS IN THE EXPANDING EU" JUNE 9, 2004 L.A. CENTER STUDIOS

## THIS CONFERENCE WILL PROVIDE AN OVERVIEW OF EU TRADE AND INVESTMENT LAW AND PRACTICE, INCLUDING OPPORTUNITIES IN NEW EU MEMBER COUNTRIES.

1:00PM INTRODUCTIONS AND ANNOUNCEMENTS – GILLIAN CAMPBELL, BABC LA

1:10PM WELCOME ADDRESSES

BERTIE AHERN, PRESIDENT OF THE EU, PRIME MINISTER OF IRELAND (VIA TAPE DELAY)

EU AMBASSADOR TO THE U.S. GUENTHER BERNHARDT (VIA TAPE DELAY)

1:30PM OVERVIEW OF EU LAW AND PRACTICE

JOHN BALFOUR, BEAUMONT & SON (LONDON)

INTRODUCTION BY RODERICK MARGO, CONDON & FORSYTH (LOS ANGELES)

2:00PM Doing Business in the EU

NEIL FOSTER, MORRISON & FOERSTER (LONDON); ALAN RYAN, FRESHFIELDS

BRUCKHAUS DERINGER (WASHINGTON, D.C. AND BRUSSELS); ANDREW WEILER,

WHITE & CASE (LONDON)

MODERATORS: PETER GELLES & JOHN GARMAN (LOS ANGELES)

3:30PM-4:00PM BREAK

4:00PM-5:30PM BREAKOUT PANELS

#### A. EU TRADE & INVESTMENT

CONSULS GENERAL/ TRADE REPRESENTATIVES FROM AUSTRIA, BRITAIN, GERMANY, HUNGARY, IRELAND, NETHERLANDS, POLAND AND SWEDEN.

MODERATOR: JUDGE JOHN DAVIES, RET

## B. EU LITIGATION/ADR

FRED BENNETT, QUINN EMANUEL URQUHART OLIVER & HEDGES LLP (LOS ANGELES); ELIZABETH BIRCH, ACI (LONDON); JONATHAN LUX, INCE & CO. (LONDON); JOHN SHARER, GIBSON, DUNN & CRUTCHER (LOS ANGELES)

MODERATOR: PAUL WRIGHT, INTERNATIONAL MEDIATION & ARBITRATION CENTER

## C. MEDIA/ENTERTAINMENT BUSINESS OPPORTUNITIES IN THE EU

FILM COUNCILS FROM THE UK, IRELAND, ITALY, SPAIN, ROMANIA, CROATIA

MODERATORS: ARNOLD PETER & CHERIE RAIDY, LORD BISSELL BROOK (LOS ANGELES)

5:45PM-7:30PM RECEPTIO

EU CONSULAR AND TRADE OFFICIALS WILL BE IN ATTENDANCE

MCLE CREDIT FOR ATTORNEYS: 4.0 HOURS GENERAL CREDIT

PRICE: \$195 (INCLUDES RECEPTION)

\$125 (FOR BABC & STATE BAR INTERNATIONAL LAW SECTION MEMBERS)



# The Law Committee of the

British American Business Council



# THE STATE BAR OF CALIFORNIA INTERNATIONAL LAW SECTION

present

"Doing Business in the Expanding EU"

at

## LA Center Studios

450 South Bixel Street Los Angeles, CA 90017

1:00 - 7:30PM

MCLE Credit for Attorneys: 4.0 hours general credit

Non-Members: \$195 Members: \$125

## Wednesday June 9, 2004

## **AGENDA**

#### Welcome Addresses

Bertie Ahern, President of the EU, Prime Minister of Ireland (via tape delay); EU Ambassador to the US Guenther Bernhardt (via tape delay)

#### · Overview of EU law and practice

John Balfour, Beaumont & Son (London) Introduction by Roderick Margo, Condon & Forsyth (Los Angeles)

#### Doing Business in the EU

Neil Foster, Morrison & Foerster (London); Alan Ryan, Freshfields Bruckhaus Deringer; Andrew Weiler, White & Case (London) Moderators: Peter Gelles & John Garman (Los Angeles)

## EU Trade & Investment (Breakout Panel)

Consuls General/Trade Representatives from Austria, Britain, Germany, Hungary, Ireland, Netherlands, Poland, and Sweden Moderator: Judge John Davies (Ret.)

## EU Litigation/ADR (Breakout Panel)

Fred Bennett, Quinn, Emanuel, Urquhart, Oliver & Hedges (Los Angeles);
Elizabeth Birch, ACI (London);
Jonathan Lux, Ince & Co. (London);
John Sharer, Gibson, Dunn & Crutcher (Los Angeles)
Moderators: Paul Wright, International Mediation & Arbitration Center

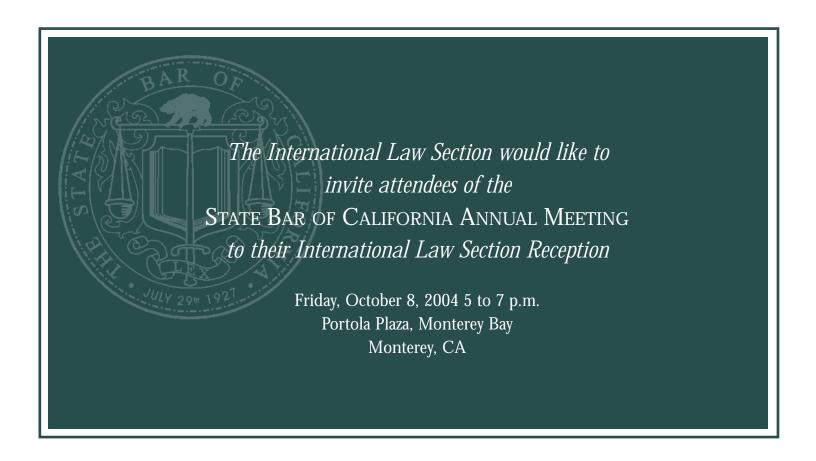
## Media/Entertainment Business Opportunities in the EU (Breakout Panel)

Film Councils from the UK, Ireland, Italy, Spain, Romania, Croatia Moderators: Arnold Peter & Cherie Raidy, Lord Bissell Brook (Los Angeles)

#### Reception

EU Consular and Trade Officials will be in attendance

Yes, I would like to attend on Wednesday June 9, 20 I enclose my check/credit card details for \$(	members &	State Bar Member non-members)	BABC Member
VS/MC/AE #	Expiration		
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## INTERNATIONAL LAW SECTION

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